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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/638,096	08/07/2003	Levik Kodaverdian	Bona US 4 CVL	3381

7590

11/21/2005

KLAAS, LAW, O'MEARA & MALKIN, P.C.
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EXAMINER

SHAKERI, HADI

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 11/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

6

Office Action Summary	Application No.	Applicant(s)	
	10/638,096	KODAVERDIAN ET AL.	
	Examiner	Art Unit	
	Hadi Shakeri	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-13, 15-24, 26-28, 30 and 32-35 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-13, 15-24, 26-28, 30 and 32-35 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION***Claim Rejections - 35 USC § 103***

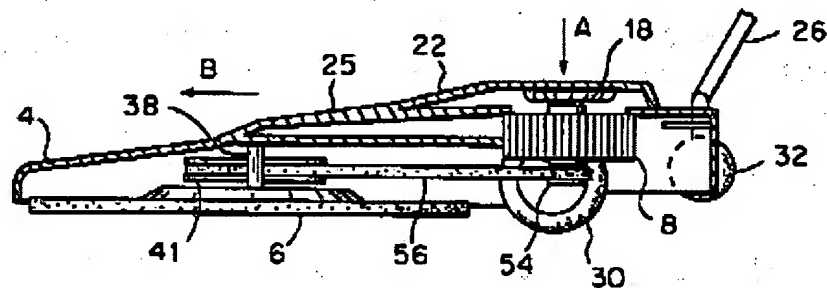
1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 9, 11-17, 20-24, 26-28, 30, 33, 34 and 35 are rejected under 35

U.S.C. 103(a) as being unpatentable over Gurstein et al. in view of anyone of Barous, Palushi or Stewart.

Gurstein et al.
discloses all of the
limitations of claims 1 and
17, i.e., a floor edger



comprising a first housing (shroud 4) including a first opening and a rotatable abrasive disc (6) located in said opening, said rotatable abrasive disc having a diameter greater than six inches, and a motor (8) operatively connected to said first housing and drivingly connected to said abrasive disc located at least partially in a second opening; a motor controller (25) as discloses in col. 6, lines 33-47 considered to meet all the limitations of claim 17, wherein a fan (18) drivingly connected to the motor and located in the first housing on the shaft (20) between motor (8) and the pulley (54) (05:65-67), except for disclosing a third opening or a port in the first housing wherein an air path is defined between the port and the first opening through the fan.

Vacuum ports to withdraw dust and debris are known in the art as evident by Barous, Palushi or Stewart. It would have been obvious to one of ordinary skill in the art, at the time the

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invention was made, to modify the invention of Gurstein et al. with a port and vacuum device as taught by anyone of Barous, Palushi or Stewart to collect the generated dust and debris.

Regarding claims 4-8 and 20-23, Gurstein et al. meets the limitations, e.g., col. 3, line 46 (US 5,004,944); 2.5 hp.

Regarding claims 9, 11, 13, 15-16 and 24-26, 28, 30 and 35, Gurstein et al. meets the limitations, e.g., second housing frame (3).

3. Claims 2-8, 18-23, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prior Art (Gurstein et al. in view of anyone of in Barous, Palushi or Stewart) as applied to claims 1 and 17 above, further in view of McCutchen (6,540,598).

Gurstein et al. modified by anyone of in Barous, Palushi or Stewart indicated above meets all the limitations of the above claims, except for the specific size of the disc, weight of the edger, rpm and hp of the motor. The edger as disclosed is dimensioned and proportionally sized for a disc having 20" diameter, therefore modifying or proportionally downsizing the edger of Prior Art, for a disc of about 7", a common commercially available size as evident by McCutchen (col. 3, line 46), depending on the workpiece and or operational parameters, e.g., grinding small or hard to reach areas, a modification well within the knowledge of one of ordinary skill in the art, would reduce the weight if not three times smaller, sufficiently lighter to meet the limitations as recited.

Regarding claims 2, 3, 18 and 19, Prior Art further modified in view of McCutchen, i.e., for use with a smaller pad, e.g., 7" depending on workpiece and/or operational parameters meets the limitations, since pads having 6 to 8 inch diameters are common in the art.

Regarding claims 4-8 and 20-23, even though modified Prior Art further is considered to meet the limitations, however in the alternative, it is also noted it would have been obvious to

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one having ordinary skill in the art at the time the invention was made to use the specific motor having desired specification, e.g., rpm, hp for an intended use, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Conclusion

4. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Response to Arguments

5. Applicant's arguments filed 09/22/05 have been fully considered but they are not persuasive.

The arguments that combination of Gurstein with Barous, Palushi or Stewart does not disclose "an air path extending between said first opening and said third opening by way of said fan" and that there is no motivation to combine, are not persuasive.

Regarding motivation to combine, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the

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references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, anyone of the modifying references teaches vacuum ports to withdraw dust and debris.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., air path between the openings via the fan) does not structurally limit the floor edger as argued, i.e., facilitate the removal of dust and debris from the area of the fist housing, and the fact that the fan of Gurstein serves another function, does not exclude it from meeting the limitation as recited. Applicant is reciting for an "air path" to extend between the first and third openings via the fan, which is met by the combined references, so long as there are two openings (one for the abrasive disk, and one for the vacuum port), and the fan is situated there between. Applicant is correct to state that in order to modify Gurstein there would have to be another opening for the vacuum, however, there would not have to be another fan. The claims recite for a fan to be in the housing and to be drivingly connected to the motor. This limitation is met by the cooling fan (18) of Gurstein. Once Gurstein is modified, e.g., per Palushi, for a vacuum, there would have to be another opening (corresponding to the nozzle 62 of Palushi), which is operated by a separate motor (70). Nothing in the claim excludes the cooling fan (18) of Gurstein to meet the limitation as recited. The argument that this would restrict the cooling effect of the fan for cooling down the motor and the controller is not persuasive, since fan (18) is designed and situated to perform its function and since the fan is not being modified to perform the suction for the vacuum. The recitation of "an air path extending..." fails to physically and structurally further limit the housing or the floor edger, and is met by the combination, since air paths would exist between the two openings.

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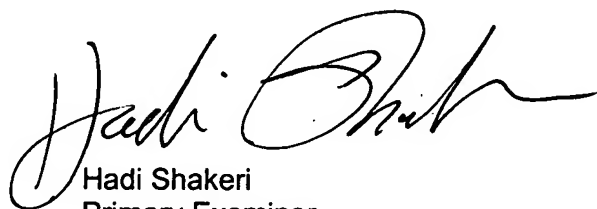
Conclusion

6. Prior art made of record and not relied upon are considered pertinent to applicant's disclosure. Myers is cited to show related invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hadi Shakeri whose telephone number is 571-272-4495. The examiner can normally be reached on Monday-Thursday.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hadi Shakeri
Primary Examiner
Art Unit 3723
November 14, 2005